

### **REMARKS**

In response to the Office Action dated March 24, 2010, please enter the amendments and following remarks.

#### **37 CFR 1.83(a)**

The examiner objected to the drawings and disclosure under 37 CFR 1.83(a) due to errors therein. Please amend Figures 2-5 of the drawings as shown marked up on the attached copies thereof. Replacement drawing sheets incorporating these corrections are also filed herewith. Corresponding amendments to the specification have also been submitted. In view of the amendments, the applicants respectfully request that the objection be withdrawn.

#### **37 CFR 1.75(d)(1) and MPEP 608.01(o)**

The examiner objected to claims 33, 34, 41 and 42 as lacking proper antecedent basis in the specification.

To provide proper antecedent basis for claim 33 and 41, the specification has been amended at page 6 line 22 as follows: ‘... when the shower base is tiled the tiles may extend over the cover plate 9 ~~or equivalent~~ having a planar surface substantially contiguous with the floor 6 of the shower base so that the waste outlet is not visually apparent.’

To provide proper antecedent basis for claims 34 and 42 the specification has been amended at page 5 line 6 to add the following sentence: ‘... into the drain channel 11 and to the waste outlet 8. Preferably the front side of the shower base is not higher than the floor 6 of the shower base adjacent to the door 1.’

In view of these amendments, the applicants respectfully request that the objection be withdrawn.

#### **35 USC 112**

The examiner rejected claims 28, 35 and 43 under 35 USC 112 second paragraph as indefinite.

The examiner said that:

'Claim 28 is unclear as to the relationship between the "return panel" on line 2 thereof, and the "return panel" on line 2 of claim 27.'

Claim 27 is now cancelled. Claim 28 has been amended to refer to '... a said return panel ...'.

The examiner stated that:

'Claim 35 recites an "upstand". The claim term is described on page 4 using drawing reference numeral 18. However, neither element 18 in Fig. 2, nor element 18 in Fig. 3 is seen to extend "around the periphery" of the shower base 5 as recited in the claim. The metes and bounds of this recitation is not ascertainable. Claim 43 is similarly indefinite.'

'Upstand 18' in the specification at page 4 line 23 is now amended to 'upstand 14' and the correct element of the shower base is indicated with reference numeral 14 in corrected Figures 3 and 4. Also, claims 35 and 43 are now cancelled.

### **35 USC 102 and 35 USC 103(a)**

The examiner rejected claims 25, 27, 28 and 44 as anticipated by Montanari, claims 29, 35 and 45 as unpatentable over Montanari and Zaccai et al, claims 30 and 31 as unpatentable over Montanari and Jurek et al '518, claims 32 and 33 as unpatentable over Montanari and Gerloff, claim 34 as unpatentable over Montanari and McAllister '571, claims 36 and 39 as unpatentable over Montanari and Jurek further in view of Payne, claims 38 and 43 as unpatentable over Montanari, Jurek and Payne further in view of Zaccai, claims 40 and 41 as unpatentable over Montanari, Jurek and Payne further in view of Gerloff, and claim 42 as unpatentable over Montanari, Jurek and Payne further in view of McAllister.

The subject application relates to and discloses a shower enclosure comprising a shower base, a door, and one or more return panels which are supported from the shower base along the foot of the or each return panel. Figures 1 to 3 of the subject application show a shower enclosure with two return panels 2 on either side of door 1. As explained in the Background of the Invention section of the specification a shower enclosure of this type consists of a door and return panel or panels which are fitted in a corner of a bathroom or other area to form together with the existing corner walls of the room a shower cubicle. In practice the return panels are

fixed to the walls of the room at the vertical edge of the or each return panel adjacent a wall. And as stated in the specification in the paragraph on page 6 commencing at line 5:

‘a shower base of the invention also includes a formation or formations around or along a part of the front side of the shower base for mounting a return panel or panels to the shower base on one or both sides of the door of the shower enclosure. In the preferred form shown a step 21 is formed at the peripheral edge of the floor of the shower base where the floor joins the drain channel 11, as shown in Figures 3 to 5, to accommodate the rail 18 at the foot of the return panels. The rail 18 at the foot of the return panel may be bonded to the shower base at the step by a silicone bonding agent for example, or alternatively in another embodiment the rail(s) 18 may be omitted and the glass edge of the return panel(s) 2 bonded directly into the step 21. Alternatively again, formation(s) between the periphery of the floor of the shower base and the drain channel may comprise moulded protrusions in the shower base which locate or engage into rail 18 or similar on the foot of one or more return panels, or such formations may be formed in the shower base in any other suitable form to assist in locating the foot of one or more return panels.’

The shower enclosure and shower base of the invention address the issue of making tiling of a shower base a simpler task for a tiler. As referred to in the specification at page 6 paragraph beginning at line 26:

‘As indicated above, with the shower base of the invention which has a waste outlet to one side of the shower base combined with an associated drain channel, the floor surface of the shower base may be subsequently planar i.e. a single plane, which when the shower base is to be tiled requires less cutting of tiles at any change of plane in the floor surface of the shower base.’

In contrast, conventionally in a shower base for an enclosure with return panels on one or both sides of a door to provide a fall in all parts of the surface of the shower base towards the waste outlet, and the shower surface typically comprise three or four segmented surface parts which separately fall, from the shower enclosure door, from one or more shower enclosure return panels, and from the room wall side or sides of the shower enclosure, all towards a waste of the shower base.

The shower enclosure and base of the invention address this differently, by providing a drain channel external to the enclosure which extends around or across the front side of the shower base exterior to the door of the enclosure and the return panels. There is a gap between the bottom edge of the end of the door and the front side of the shower base through which water may pass to the drain channel and there are water drain gap(s) between the foot of the return panel or panels and the shower base through which again water may pass to the drain channel. The shower base is formed to have a floor which falls towards the front side of the shower base. The waste outlet is provided at the front side of the shower base, and is associated with the drain channel so that water will drain from the drain channel to the waste outlet. The design result is that the shower base floor surface can be formed as a single plane, so that the floor surface of the shower base does not comprise intersecting planes as referred to previously. Where the shower base is to be tiled, this reduces tiling work relative to a shower base with a central waste and in which the floor surface of the shower base is split into multiple segments as referred to above. A shower base of the invention may be formed so as to comprise two surface planes but the amount of tile cutting and related work is still reduced relative to a shower base with for example four different surface plane segments as is common. And the shower enclosure and base of the invention achieve this in a shower enclosure in which the return panels are supported from the shower base.

Claim 25 as now amended requires that the shower enclosure include a door 'and a return panel on one or both sides of the door', and that:

'the shower base comprising an integral formation or formations at a peripheral edge of the floor of the shower base adjacent the drain channel shaped to receive a foot of the return panel or panels and support from the shower base the return panel or panels along said foot of the or each return panel ... and a water drain gap between the foot of the or each return panel and the shower base through which water may flow beneath ... the return panels to the drain channel'.

Claim 36 to a shower base, as amended recites:

'and integral with the shower base a formation or formations around a front side of the shower base for mounting to the shower base a return panel or panels of a shower enclosure on one or both sides of a door of the shower enclosure along a foot of the return panel or panels,

said formation or formations being between the periphery of the floor of the shower base and the drain channel, the shower base also comprising an integral water drain cut-out or cut-outs through said formation or formations for water flow beneath a said return panel or panels supported by said formations in the shower base.'

In support of the rejections based on Montanari alone or in combination with other references the examiner stated:

'The Montanari reference discloses a shower enclosure comprising: a door 9; a shower base 3 including a floor 33; a waste outlet 35; a drain channel 34; and a return panel 7a, as claimed. Re claim 25, the non-sealed gap is depicted in Fig. 8. Re claim 28, the non-sealed gap is depicted in Fig. 1.'

Montanari discloses a shower enclosure in which the door and return panels are supported solely by attachment of the frame of the shower enclosure to the room walls. The frame of the shower enclosure or return panels are not supported from the shower base.

Montanari describes the shower enclosure as 'suspended' on the posts along the vertical edges of the return panels which are fixed to the room walls. This is as shown in Figures 6 to 8 of Montanari, and there is no contact between the bottom or foot of the frame of the shower enclosure and the shower base.

Montanari may disclose a shower enclosure in which the flow of waste water from the surface of the shower base is towards the front side of the shower base and beneath the shower enclosure to a peripheral drain channel around or across the front side of the shower base, but it does so only in relation to a shower enclosure in which the door and one or more return panels of the shower enclosure are supported at the edges of the return panels and not from the shower base.

This in turn requires that all of the weight of the door and the return panels, which in a shower enclosure are usually glass, is carried in full through the frame of the shower enclosure, to the fixings of the return panel edges and to the room walls, which in turn requires a minimum strength and size/weight of the shower enclosure frame. It probably also requires that the lower horizontal frame element of Montanari, namely the lower peripheral rim 53, extends continuously below the door aperture, which creates a less visually clean appearance.

A shower enclosure of the type disclosed by Montanari in which the enclosure is not supported from the shower base, is much less common than the type of shower base of Applicant's invention in which the weight of the glass return panels and door is carried by the shower base itself. In applicant's shower enclosure the return panel or panels at the vertical edge(s) thereof are also fixed to the room walls but their weight is carried through the shower base. There is no requirement therefore, as in Montanari, that the strength and size or weight of the frame components is sufficient to carry the weight of the door and return panels through the frame to the wall fixing only, so that this type of shower enclosure can be formed more economically and will likely be more structurally robust also. However in this type of shower enclosure, because the return panel or panels sit along their lower edges or foot or feet on the shower base, the shower base is usually shaped to have a fall to the waste from the door and from each return panel and room wall to the waste and thus typically comprises an upper surface with multiple surface segments as referred to above, which is more complex to tile if the shower base is to be tiled, requiring a higher amount of cutting of tiles etc as described.

The shower enclosure and base of Applicant's invention as now claimed addresses this by providing in the shower base an integral formation or formations at a peripheral edge of the floor of the shower base adjacent the drain channel shaped to receive a foot of the return panel or panels to support from the shower base the return panel or panels along the foot of the or each return panel, and at the same time a water drain gap between the foot of the or each return panel in the shower base through which water may flow beneath the return panels, as well as the door, to the drain channel. This in turn enables the shower base in which the return panel or panels are supported from the shower base unlike as in Montanari, to be formed as a single surface, to have a fall towards the front side of the shower base, and to have a drain channel which extends around or across the front side of the shower base beneath and exterior to the door of the enclosure.

Referring again to Applicant's specification, the shower base has 'a formation or formations around or along a part of the front side of the shower base for mounting a return panel or panels to the shower base on one or both sides of the door of the shower enclosure'. In the preferred form shown as step 21 is formed at the peripheral edge of the floor of the shower base

where the floor joins the drain channel 11, as shown in Figures 3 to 5, to accommodate the rail 18 at the foot of the return panels.’ And the shower base is formed:

‘to also incorporate moulded cut-out 17 down which water falling towards either side of the front of the shower enclosure will fall, to the drain channel 11.’ As shown in Figure 4 in particularly the moulded cut-outs 17 extend through the step 21 provided in the shower base to support the return panel(s).

Montanari nor Montanari in combination with any of the other references cited, does not anticipate or render unpatentable claims 25, 28-34, 36, 38-42, or 46-49 as now presented and reconsideration is requested.

A three month extension fee is necessary for entry of this response. The Commissioner is hereby authorized to charge \$1,110.00, based on large entity, and any other fees under 37 CFR § 1.17 that may be due on this application to Deposit Account 17-0055. The Commissioner is also authorized to treat this amendment and any future reply in this matter requiring a petition for an extension of time as incorporating a petition for extension of time for the appropriate length of time as provided by 37 CFR § 136(a)(3).

Respectfully submitted,  
HATRICK-SMITH, John

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By: /Terri S. Flynn/  
Terri S. Flynn  
Reg. No. 41,756  
Attorney for Applicant  
Quarles & Brady LLP  
411 East Wisconsin Avenue  
Milwaukee, WI 53202-4497  
(414) 277-5229